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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,223	08/28/2003	Chiyumi Niwa	B422-241	6354

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EXAMINER	
LAM, HUNG H	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
02/03/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/650,223	NIWA, CHIYUMI	
	Examiner	Art Unit	
	HUNG H. LAM	2622	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11/14/08*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8 and 10-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6, 8 and 10-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/14/08 has been entered.

Response to Amendment

2. The amendments, filed on 11/14/08, have been entered and made of record. Claim 7 is canceled. Claims 1-6, 8 and 10-12 are pending.

Response to Arguments

3. Applicant's arguments with respect to claims 1-6, 8 and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8 and 10-12 are rejected under 35 U.S.C. 102(e) as being *anticipated* by Kudo (US-2005/0,225,652).

Regarding **claim 8**, Kudo discloses a control method of an image pickup apparatus including a first mode for picking up an object image (Fig. 3; see dial 206; camera position) and a second mode for reproducing a recorded image (play back position), the image pickup apparatus having an operation member (Fig. 3; dial 206) which is operable toward a first position corresponding to the first mode, and is operable toward a second position corresponding to the second mode ([0051]), said control method comprising:

a control step o-f effecting control of said image pickup apparatus so as to make said image pickup apparatus active in accordance with the mode corresponding to the position to which said operation member is operated, if said operation member is operated to one of the first position

and the second position when said image pickup apparatus is in a non-active state ([0050-0052]: the non active state of the image pickup apparatus/camera is interpreted as when the "OFF" position in dial 206 is aligned with bar 212; the camera is inherently in active state when the playback or camera position on the dial 206 is dialed to align with bar 212), and

switch over the mode of said image pickup apparatus to the mode corresponding the position to which said operation member is operated, if said operation member is operated to one of the first position and the second position when said image pickup apparatus is in an active state and the current mode of said image pickup apparatus is different from the mode corresponding the position which said operation member is operated ([0050-0054]: the camera is inherently in active state when camera or playback position on the dial 206 is dialed to one another).

Regarding **claim 10**, Kudo discloses a storage medium computer-readably storing a program comprising a program code for causing a computer to execute said control method of an image pickup apparatus according to claim 8 ([0057; 0063-0067]).

Regarding **claim 11**, Kudo discloses an image pickup apparatus including a first image pickup mode for picking up an object image (Fig. 3; see camera position in dial 206), a second image pickup mode for picking up an object image, a first image reproducing mode for reproducing a recorded image and a second image reproducing mode for reproducing a recorded image (Fig. 3; see playback position in dial 206), said apparatus comprising:

an operation member (dial 206) which is operable toward a first position corresponding to the first and second image pickup mode, and is operable toward a second position corresponding to the first and second image reproducing mode ([0050]); and

a control unit which controls mode switching of said image pickup apparatus so as to switch over the mode thereof between the first image pickup mode and the second image pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode, switch over the mode of said image pickup apparatus to one of the first image reproducing mode and the second image reproducing mode if said

operation member is operated to the second position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode ([0050-0054]),

switch over the mode of said image pickup apparatus between the first image reproducing mode and the second image reproducing mode if said operation member is operated to the second position when said image pickup apparatus is in one of the first image reproducing mode and the second image reproducing mode, and switch over the mode of said image pickup apparatus to one of the first image pickup mode and the second image pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image reproducing mode and the second image reproducing mode ([0050-0054]).

Regarding **claim 12**, Kudo discloses a control method of an image pickup apparatus including a first image pickup mode for picking up an object image, a second image pickup mode for picking up an object image (Fig. 3; camera mode in dial 206), a first image reproducing mode for reproducing a recorded image and a second image reproducing mode for reproducing a recorded image (playback mode in dial 206), the image

pickup apparatus having an operation member (dial 206) which is operable toward a first position corresponding to the first and second image pickup mode, and is operable toward a second position corresponding to the first and second image reproducing mode ([0050]), and, said control method comprising:

the step of controlling mode switching of said image pickup apparatus so as to switch over the mode thereof between the first image pickup mode and the second image pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode, switch over the mode of said image pickup apparatus to one of the first image reproducing mode and the second image reproducing mode if said operation member is operated to the second position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode ([0050-0054]),

switch over the mode of said image pickup apparatus between the first image reproducing mode and the second image reproducing mode if said operation member is operated to the second position when said image pickup apparatus is in one of the first image reproducing mode and the

second image reproducing mode, and switch over the mode of said image pickup apparatus to one of the first image pickup mode and the second image pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image reproducing mode and the second image reproducing mode ([0050-0054]).

Claim Rejections - 35 USC § 103

5. Claims 1, 3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo in view of Shigemoto (US-5,469,125).

Regarding **claim 1**, Kudo teaches an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image (Fig. 3; see camera and playback mode on dial 206), said apparatus comprising:

an operation member (Fig. 3; dial 206) which is operable switched to said first mode according to an operation to toward a first position corresponding to the first mode, and is operable switched to said second mode according to an operation to toward a second position corresponding to the second mode (see camera and playback mode; [0051]),

a control unit, which effects control of said image pickup apparatus so as to make said image pickup apparatus active in accordance with the mode corresponding to the position to which said operation member is operated to one of the first position and the second position, if said operation member is operated when said image pickup apparatus is in a non-active state ([0050-0052]: the non active state of the image pickup apparatus/camera is interpreted as when the "OFF" position in dial 206 is aligned with bar 212; the camera is inherently in active state when the playback or camera position on the dial 206 is dialed to align with bar 212), and

switch over the mode of said image pickup apparatus to the mode corresponding to the position to which said operation member is operated, if said operation member is operated to one of the first position and the second position when said image pickup apparatus is in an active state and the current mode of said image pickup apparatus is different from the mode corresponding to the position to which said operation member is operated (([0050-0054]: the camera is inherently in active state when camera or playback position on the dial 206 is dialed to one another).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user.

Shingemoto teaches a rotary electronic switching device (Fig. 7) which can be pushed to a side by force and returned to initial neutral position when the pushing force is removed (Figs. 7 and 9; Col. 7, Ln. 29-68; Col. 8, Ln. 3-23). In light of the teaching from Shingemoto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki to include the rotary switching device of Shingemoto in order for a switch to return to initial neutral position when a pushing force is removed. The modifications thus allow a recording and playback switch to response quicker for the next operation.

With regarding **claim 3**, Kudo in view of Shigemoto discloses an image pickup apparatus wherein in case that said image pickup apparatus is in an electric power off state (Kudo: Fig. 3: OFF position), said control means turns electric power on according to a mode switching operation of

said operation member and starts up said image pickup apparatus in a mode corresponding to a position operated in the mode switching operation (Kudo: [0050-0054]).

With regarding **claim 5**, Kudo in view of Shigemoto fails to explicitly disclose an image pickup apparatus wherein in a state of said first mode, said control unit switches to a mode different in photographing format from that of said first mode according to the operation of said operation member to said first position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different photographing format such that one of the wide angle, telephoto angle, landscape and portrait format. Therefore, it would have been obvious to one of ordinary skill in the art to modify the device of Kudo and Shigemoto to switch to different photographing format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, "an image pickup apparatus wherein in a state of said first mode, said control unit switches to a mode different in photographing

format from that of said first mode according to the operation of said operation member to said first position" is now taken as admitted prior art. See MPEP 2144.03(c).

With regarding **claim 6**, Kudo in view of Shigemoto fails to explicitly an image pickup apparatus according to claim 1, wherein position in a state of said second mode, said control unit switches to a mode different in reproduction format from that of said second mode according to the operation of said operation member to said second position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different reproduction format such that one of the quick review and slide slow. Therefore, it would have been obvious to one of ordinary skill in the art to modify the device of Kudo and Shigemoto to switch to different reproduction format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, "wherein position in a state of said second mode, said control unit switches to a mode different in reproduction format from that of said

second mode according to the operation of said operation member to said second position" is now taken as admitted prior art. See MPEP 2144.03(c).

6. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo in view of Shigemoto and further in view of Ejima (US-2002/0,008,765).

Regarding **claim 2**, Kudo in view of Shigemoto fails to explicitly disclose an image pickup apparatus according to claim 1, wherein during said second mode, said control unit shifts said second mode to said first mode without operating said operation member, and according to an operation of an operation member related to photographing, different form said operation member related to the first and second modes.

In the same field of endeavor, Ejima teaches a camera which performs a photographing operation immediately by operating a shutter release button (5) even in the quick review mode (0095-0096). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Kudo and Shigemoto to perform a photographing operation even in the quick

review mode. The modifications thus allow a digital camera to capture any desired images at any instances.

With regarding **claim 4**, Kudo in view of Shigemoto fails to explicitly disclose an image pickup apparatus according to claim 1, wherein said control unit withdraws a lens barrel according to the operation to said second position by unit of said operation member, when said lens barrel is fed forward in a state of said second mode.

In the same field of endeavor, Ejima teaches a camera wherein a photographing zoom lens 2, which has been driven out retracts to the state shown in Fig. 1A if the electronic still camera 1 is switched to the reproduction mode (0038; 0053). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Kudo and Shigemoto to retract a photographing zoom lens in the reproduction mode. The modifications thus provide a means for protecting the photographing zoom lens while images are reviewed.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG H. LAM whose telephone number is (571)272-7367. The examiner can normally be reached on Monday - Friday 8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan V Ho/
Primary Examiner, Art Unit 2622

HL
01/20/09